IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1093 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ATULKUMAR KAPURCHAND GOSRANI & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR TUSHAR MEHTA for Petitioner(s) : 1 - 2.
MR SATYAM CHHAYA, AGP for Respondent(s) : 1 - 3.
M/S PATEL ADVOCATES for Respondent(s) : 1 - 2.
MR PV HATHI for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 21/02/2007

ORAL JUDGMENT

1. When the matter is taken up for final hearing, it appears that there is no dispute between the

learned Counsel appearing for the petitioners and Mr.Hathi, learned Counsel appearing for the District Panchayat that pending the petition, the area in question is now included in the residential zone. Therefore, under these circumstances, Mr.Mehta, learned Counsel appearing for the petitioners under the instructions of his client, states that the petitioners will approach for N.A. permission in view of the change of the zone. However, he submitted that the application, which may be made by the petitioners may be directed to be decided within some reasonable time.

2. Mr.Hathi, learned Counsel appearing for the DDO states that if such an application is made, even otherwise also the DDO is required to decide the same within 45 days from the date of receipt of the application.

3. Under the above circumstances, as the order passed by the Development Commissioner arising from the order of DDO was based on the situation that the land at the relevant point of time was in agricultural zone and now as the zone is

changed and the petitioners are desirous to make a fresh application, no useful purpose would be served in deciding the questions, which are raised in this petition. Further, the learned Counsel appearing for the petitioners have also declared before the Court that the petitioners are desirous to make a fresh application and the petitioners are not pressing the challenge in view of the change of the zone of the area.

4. Hence, the petition is disposed of as having become infructuous in view of the change of zone from agricultural zone to residential zone and as the petitioners are desirous to make a fresh application for N.A. on the basis that the area is now included in the residential zone. However, it is further observed that in the event the petitioners make application within a period of two weeks from today, the same shall be considered by the competent authority in accordance with law under Section 65 of the Bombay Land Revenue Code, as early as possible, but not later than the period of 45 days as declared by the learned Counsel appearing for

the DDO. It is needless to state that the order passed by the Development Commissioner was based on the situation that the land was in agricultural zone, whereas the situation is subsequently changed and, therefore, the DDO will have to consider the matter afresh in light of the changed circumstances, without being influence by the order passed earlier by him, which was set aside by the Development Commissioner.

5. Disposed of accordingly. Rule discharged.

22.2.2007 **(Jayant Patel, J.)**

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